

a proximal end, a distal end and a hollow tubular body comprising a biocompatible material;

the hollow tubular body comprising at least one segment of curvature;

the segment of curvature comprising an inside of the curvature and an outside of the curvature;

wherein the biocompatible material is distributed substantially equally along the length of

the segment of curvature on the inside of the curvature and on the outside of the curvature;

and further wherein the hollow tubular body is geometrically shaped and sized to approximate an anatomical shape.

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#### REMARKS

#### Election/Restriction

Applicant elects Group I., claims 1-38 drawn to an endoluminal prosthesis without traverse to Examiner's restriction of Group II., claims 39-40 drawn to a method for fabricating an endoluminal prosthesis.

#### Information Disclosure Statement

An English abstract from Derwent as well as an English machine translation from the Japanese Patent Office has been provided in translation support of cited document JP 09-164209.

Applicant submits that the translations are in compliance with 37 CFR 1.98 (a)(3) and respectfully requests that Examiner remove any objections.

### **Drawings**

Applicant has amended Fig. 5 to show numeral 22 in place of numeral 25 to be in compliance with 1.84(p)(4). Applicant acknowledges the duplicate enumeration and submits numeral 22 as a reference numeral of the straight segment of stent 1. The specification has been amended accordingly.

Applicant has amended Fig. 7A to show numeral 32 in place of numeral 27 in compliance with 1.84(p)(5). Applicant believes that the Examiner meant to refer to numeral 27 rather than 26 as numeral 27 was mistakenly used to refer both to a curved stent and a parallel plane. Reference numeral 26 was only used once to refer to a straight projection of the curved stent in Fig. 6B. The specification has been amended accordingly.

Applicant has amended the specification to mention perpendicular projection 24 of the curved stent in compliance with 37 CFR 1.84(p)(5).

Applicant submits that the drawings are now in compliance with 37 CFR 1.84 and respectfully requests that the Examiner withdraw all objections.

### **Specification**

Applicant has amended the specification to correctly reflect the changes in the drawings.

Applicant has identified reference numeral 22 as the straight segment of the curved stent, reference numeral 32 as the curved stent and reference numeral 26 as the straight projection of the curved stent.

For further clarification, Application has added reference numeral 24 as the perpendicular projection of the curved stent and reference numeral 26 as the straight projection of the curved stent.

Applicant has amended the specification as requested by the Examiner to correct Figures 8 and 13.

Applicant respectfully submits that the specification is now in compliance with 37 CFR and requests approval from the examiner.

### **Claims**

Claim 38 has been cancelled without prejudice.

### **35 USC § 112**

Examiner has rejected claims 2 and 3 for lacking an antecedent basis for “the body segment”.

Claims 2 and 3 have been amended to refer to “the segment of curvature” recited in claim 1.

Examiner has rejected claims 4-6 for lacking an antecedent basis for “the stent body”. Claims 4-6 have been amended to refer to “the hollow tubular body” recited in claim 1.

Examiner has rejected claim 15 for lacking an antecedent basis for “wire” based upon its errant dependency from claim 20. Applicant has amended claim 15 to depend from claim 10. The antecedent basis has been established as claim 10 recites “a wire”.

Applicant submits that claims 2-6 and 15 are now in compliance with 35 USC 112 and respectfully requests removal of Examiner's rejection.

### **35 USC § 102**

Examiner has rejected independent claims 1 and 23 and dependant claims 2, 8-16, 21, 24-32, 37 and 38 as being unpatentable under 35 USC 102(b) in light of MacGregor 4,994,071. Claim 38 has been cancelled and are no longer under consideration.

MacGregor discloses that "...by proper bending of the flexible interconnection the first and second fluid flow paths can be made to conform to a shape of the vessel into which the bifurcation is inserted." See, Col. 2, lines 36-39. Furthermore, MacGregor discloses, "...appropriate bending of the portions of the wires interconnecting the lattices allows the angles between the flow paths to be properly oriented before the stent is inserted into a vessel." See Col. 4, lines 10-13.

Amended claims 1 and 23 claim a hollow tubular body comprising a biocompatible material, a segment of curvature along the hollow tubular body and the biocompatible material being distributed substantially equally along the segment of curvature on the inside of the curvature and on the outside of the curvature. The substantially equal distribution of material along the segment of curvature on the inside of the curvature and on the outside of the curvature provides and equal distribution of force and equal flexibility of the endoluminal prosthesis of the instant invention along the segments of curvature. MacGregor's patent only discloses bending of the portions of wire and does not teach or anticipate a biocompatible material which is distributed

substantially equally it along a segment of curvature on the inside of the curvature and on the outside of the curvature. Applicant submits that claims 1 and 23 are not taught or anticipated by MacGregor '071 under 35 USC 102(b) and are therefore patentable.

Claims 2,8-16 and 21 depend upon claim 1 and are therefore patentable over MacGregor '071.

Claims 24-32 and 37 depend upon claim 23 and are therefore patentable over MacGregor '071.

Examiner has rejected independent claims 1 and 23 and dependent claims 2-9, 17, 21, 24, 25, 33 and 37 as unpatentable under 35 USC 102(b) as being anticipated by Caro WO 95/09585.

Caro does not discuss the structure of the prosthesis within his application, nor does Caro teach using a hollow tube comprising a biocompatible material being distributed substantially equally along a segment of curvature on the inside of the curvature and on the outside of the curvature. In light of Caro's failure to anticipate the structure of the instant invention, applicant submits that claims 1 and 23 as well as dependant claims 2-9, 17, 21, 24, 25, 33 and 37 are patentable over Caro '585 under 35 USC 102(b).

Examiner has rejected independent claims 1 and 23 and dependent claims 2, 4, 8, 9, 10, 18, 19, 21, 22, 24-26, 34, 35 and 37 under 35 USC 102(b) as anticipated by Martin 5,653,743.

Martin discloses a metallic mesh support as one embodiment of his invention, but does not disclose or anticipate a hollow tube comprising a biocompatible material being distributed substantially equally along a segment of curvature on the inside of the curvature and on the outside of the curvature as claimed in amended claims 1 and 23. Martin does not disclose any

structural aspects of the mesh or of the wire used in the mesh. Applicant submits that for these reasons, claims 1 and 23 and dependant claims 2, 4, 8, 9, 10, 18, 19, 21, 22, 24-26, 34, 35 and 37 are not anticipated by Martin '743 and are patentable over Martin under 35 USC 102(b).

Examiner has rejected independent claims 1 and 23 and dependent claims 20 and 36 under 35 USC 102(b) as being anticipated by Ehrenfield 5,156, 619.

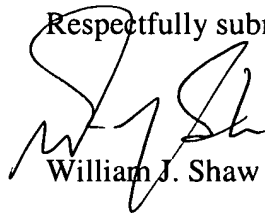
Ehrenfield '619 discloses a vascular graft knitted, in particular, from Dacron yarn. See Col. 4, lines 25-26. Ehrenfield '619 does not disclose or anticipate the use of a biocompatible material being distributed substantially equally along a segment of curvature on the inside of the curvature and on the outside of the curvature as claimed in amended claims 1 and 23. Applicant submits that, in light of this argument, claims 1, 23 and dependent claims 20 and 26 are patentable over Ehrenfield '619 under 35 U.S.C 102(b).

Examiner has rejected independent claims 1 and 23 and dependent claims 20 and 36 under 35 USC 102(b) as being anticipated by Marin 5,695,517. Amended claims 1 and 23 claim the hollow tube structures listed above, none of which are addressed by Marin '517. Furthermore, Examiner has pointed to Fig 3 of Marin as being anticipatory, yet neither the drawings nor the description disclose a hollow tubular body comprising a biocompatible material and a segment of curvature, the biocompatible material being distributed substantially equally along a segment of curvature on the inside of the curvature and on the outside of the curvature. In light of Marin's lack of disclosure of the elements of amended claims 1 and 23, applicant submits that claims 1 and 20 and their dependant claims, 20 and 36, respectively are patentable over Marin '517 under 35 U.S.C 102(b).

**Allowance**

For the aforementioned reasons, Applicant submits that this application is in condition for allowance. Applicant respectfully requests reconsideration of this application, the withdrawal of claim rejections and timely allowance of the pending claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. J. Shaw', is written over the printed name.

William J. Shaw

Reg. No. 43,111

## APPENDIX TO AMENDMENT

### Version with Markings to Show Changes Made

#### Claim Amendments

Please cancel claim 38 without prejudice.

Please renumber the claims accordingly

Please amend the claims as follows:

- 1) (Amended) An endoluminal prosthesis comprising:  
a proximal end, a distal end and a hollow tubular body [having a central axis wherein]  
comprising a biocompatible material;  
the hollow tubular body comprising at least one segment of curvature;  
the segment [being curved with respect to the central axis along the length of the  
prosthesis] of curvature comprising an inside of the curvature and an outside of the  
curvature;  
wherein the biocompatible material is distributed substantially equally along the length  
of the segment of curvature on the inside of the curvature and on the outside of the  
curvature.
- 2) (Amended) The prosthesis of claim 1 wherein the [body] segment of curvature is curved  
in at least one plane with respect to the central axis of the body.
- 3) (Amended) The prosthesis of claim 1 wherein the [body] segment of curvature is curved  
in at least two planes with respect to the central axis of the body.



- 4) (Amended) The prosthesis of claim 1 wherein the [stent] hollow tubular body has at least two segments of curvature wherein the segments of curvature are located in successive progression along the body of the prosthesis and the segments are curved within the same plane of curvature.
- 5) (Amended) The prosthesis of claim 1 wherein [stent] hollow tubular body has at least two segments of curvature wherein the segments of curvature are located in successive progression along the body of the prosthesis and the segments are curved within different planes of curvature.
- 6) (Amended) The prosthesis of claim 1 wherein the [stent] hollow tubular body has at least two segments of curvature wherein the segments of curvature overlap at least a portion of one another and the segments of curvature are curved within different planes of curvature.
- 15) (Amended) The prosthesis of claim [2] 10 wherein the wire is undulating.
- 23) (Amended) An endoluminal prosthesis comprising:  
a proximal end, a distal end and a hollow tubular body [having a central axis wherein]  
comprising a biocompatible material;  
the hollow tubular body comprising at least one segment of curvature;  
the segment of curvature comprising an inside of the curvature and an outside of the  
curvature;

wherein the biocompatible material is distributed substantially equally along the length of the segment of curvature on the inside of the curvature and on the outside of the curvature;

and further wherein the hollow tubular body is geometrically shaped and sized to approximate an anatomical shape.